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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,621	08/30/2001	Shuzo Toda	F-11390	6737
466	7590	11/19/2004	EXAMINER	
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			PWU, JEFFREY C	
			ART UNIT	PAPER NUMBER
			2143	

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/941,621

Applicant(s)

TODA, SHUZO

Examiner

Jeffrey Pwu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/21/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 lacks clear written description in the determining step (“means for determining...”); it is unclear how to determine whether a received signal is a download start control signal.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being unpatentable over Carron et al. (U.S. 4, 724,521).

Carron et al. teach claims :

1. A terminal comprising:

means for determining whether a received signal is a download start control signal (abstract; “a local terminal which includes a programmable computer so that the terminal executes a pre-

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*arranged application program.* More specifically, the present invention provides methods for operating a local terminal according to a pre-arranged application program which is created on a remote computer, then communicated by a communication channel to the local terminal *where it is stored for execution.*”);

means for changing a state of the terminal to a download state if the received signal is the download start control signal (col.6, line 15-col.8, line 47);

means for transmitting a state switching notification signal (“download code”) to a sender of said download start control signal if the state of the terminal is changed to the download state (figs. 4B-13B); and

means for downloading one of software and data after transmitting said state switching notification signal (col.25, line 10-col. 34, line 13; see also “Interpreter Routine”)

2. The terminal according to claim 1, wherein each of said download start control signal and said state switching notification signal is transmitted as one of a sub-address, a push button tone and user-to-user information (fig.1B, fig.10, 12A-12E, & 13a-13b).

3. A center comprising:

means for transmitting a download start control signal to a terminal (10, 30, 31, 32, 33, 34); and  
means for transmitting one of software and data to be downloaded to said terminal (“Table XXIX”), when receiving a state switching notification signal from said terminal (10).

4. The center according to claim 3, wherein each of said download start control signal and said state switching notification signal is transmitted as one of a sub-address, a push button tone and user-to-user information (figs. 4B-13B).

5. A system, for downloading one of software and data to a terminal, comprising the terminal according to claim 1 and a center comprising:

means for transmitting a download start control signal to the terminal; and means for transmitting one of software and data to be downloaded to said terminal, when receiving a state switching notification signal from said terminal (see “control string file”).

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6. A system for downloading one of software and data to a terminal, comprising the terminal according to claim 2 and a center comprising: means for transmitting a download start control signal to the terminal; means for transmitting one of software and data to be downloaded to said terminal, when receiving a state switching notification signal from said terminal; and wherein each of said download start control signal and said state switching notification signal is transmitted as one of a sub-address, a push button tone and user-to-user information (figs. 4B-13B).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Pwu whose telephone number is 571 272-6798. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Friday, November 12, 2004

**JEFFREY PWU**  
**PRIMARY EXAMINER**